

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/LFG

RIO CHAMA STREAM SYSTEM

Section 7, Tierra Amarilla

MOTION BY THE STATE OF NEW MEXICO
FOR AN ORDER TO REQUIRE DEFENDANTS IN THE
TIERRA AMARILLA SUBSECTION THAT FILED OBJECTIONS
TO PROPOSED IRRIGATION WATER REQUIREMENTS
TO FILE A STATEMENT OF CLAIMS

The plaintiff State of New Mexico, *ex rel.* State Engineer (“State”) moves the Court for the entry of an order that requires defendants that filed objections to the State’s proposed irrigation water requirements in the Tierra Amarilla subsection to file a statement of claims with respect to their irrigation water requirements (“IWR”). In support of this motion plaintiff states as follows:

1. In the Tierra Amarilla subsection, individual subfile orders describing the location, amount of irrigated acreage, point of diversion and source of water in each defendant’s subfile have been entered by the Court. In addition, every defendant in Tierra Amarilla subsection was served with the Court’s *Notice and Order to Show Cause* (see Doc. 9768, filed May 28, 2010) that required them to file a form objection if they disagreed with the State’s proposed determination of the priorities or the IWR of their water rights, or those of any other defendant in the Tierra Amarilla subsection. *Certificate of Service* (Doc. 9899, filed June 6, 2010). Following service of the Court’s *Notice and Order to Show Cause*, a number of defendants filed Objections to either the State’s proposed determination of priorities or IWR, or both. See Objections filed by Colomex Oil

and Gas Co., Inc. (“Colomex”) (Doc. 9914, filed July 22, 2010); Tierra Amarilla Community Ditch (“Community Ditch”) and the Asociación de Acéquias Norteñas de Rio Arriba (“Acéquias Norteñas”) (Doc. 9922, filed July 28, 2010); Chama Valley Independent School District No. 19 (“School District”) (Doc. 9929, filed July 30, 2010); Lionel E. Martinez II (“Martinez”) (Doc. 9930, filed August 4, 2010). The Objections filed by Colomex and Martinez were later dismissed for failure to appear at a mandatory scheduling and pretrial conference. *Order* (Doc. 9993, filed January 5, 2011). The remaining objections filed by the Community Ditch, Acéquias Norteñas and the School District (collectively “Objectors”) did not dispute the priorities proposed by the State, and the Court subsequently granted the State’s motion to make a final determination of the priorities of all defendants in the Tierra Amarilla subsection. *Order Making Final Determination of Priority Dates in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System* (Doc. 10153, filed June 7, 2011). The State indicated that objections to the proposed determination of irrigation water requirements in the Tierra Amarilla subsection were to be addressed separately and at a later stage in these proceedings. *Motion for Order Making Final Determination of Priority Dates in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System* at 2 (Doc. 10009, filed March 23, 2011).

2. To date, the Objectors have only been required to file an unsupported objection to the IWR proposed by the State. The State has not been informed what IWR are being claimed by the Objectors, or the factual and legal grounds for those claims. The State believes the three remaining objectors should now be required to each file a statement of claims in support of their objections. The statement of claims should include the specific IWR that are claimed to be required, and should set forth the general factual and legal grounds for those claims. The State believes this information is necessary to frame the issues for purposes of disclosure and discovery. By requiring the

Objectors to file a statement of claims and the factual and legal grounds for the claims, the Parties will be able to begin the process of addressing and resolving the outstanding objections, which may include the filing of dispositive motions based on uncontested facts or legal issues.

3. After the Objectors have filed the required statement of claims with the Court, the State will request a mandatory scheduling conference. At that conference, the State and the Objectors should be required to address any of the following matters:

- a. Notice that should be provided to other defendants in the Tierra Amarilla subsection that all defendants in the subsection will be bound by the resolution of the objections to the State's proposed IWR, and that they may participate in the proceedings to resolve the objections;
 - b. A proposed schedule for discovery including initial disclosures, disclosure of expert testimony and reports, identification of lay witnesses and exchange of exhibits;
 - c. Scheduling of any anticipated dispositive motions; and
 - d. Scheduling of a final pretrial conference and entry of a pretrial order.
4. A proposed order granting this motion is attached hereto as Exhibit 1.

WHEREFORE, the plaintiff State of New Mexico requests the Court to enter an order that requires the Tierra Amarilla Community Ditch, the Asociación de Acéquias Norteñas de Rio Arriba and the Chama Valley Independent School District No. 19, to file a statement of claims that describes the specific IWR that are claimed to be required for agricultural use in the Tierra Amarilla subsection, and to set forth the general factual and legal grounds for those claims.

Respectfully submitted,

/s/ Ed Newville
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of May 2014, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Ed Newville
EDWARD G. NEWVILLE